

OGC Has Reviewed

10 August 1955

MEMORANDUM FOR: Inspector General

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SUBJECT : Request for Relief under [REDACTED] paragraph 9a. "Special Authorizations - General Expenditure."

REFERENCE : Memorandum of 1 July 1955 to DD/S from IG, Subject as Above

1. Reference transmits to this Office the file, returned herewith, on the claim of [REDACTED] for reimbursement of the expenses of transporting his wife and children to the United States, and return to [REDACTED] on emergency leave. The facts are more fully stated in reference and attachments. Reference further states that the rejection of this claim by the various administrative echelons and the Inspector General heretofore was proper on the basis of law and administrative logic. In reference, the claimant's statement of 4 February 1954 (Attachment B) and [REDACTED] telephone conversation with [REDACTED], however, it is further suggested that Agency employment in [REDACTED] entails particular hazards, pressures and inconveniences and that for this reason it "would appear in order . . . for the Agency to extend itself to the utmost and exhaust its discretionary powers to assist personnel so located when there exists a legitimate personal emergency". Specifically, relief under paragraph 9(a) of [REDACTED] or otherwise is recommended for consideration.

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2. Paragraph 9(a) of [REDACTED] authorizes expenditures from confidential funds for any matter arising out of the "unusual functions of this Agency", a term which it defines as intending "to differentiate the extraordinary problems of this Agency from the normal administrative or operating problems confronting the ordinary government agency". Quite to the contrary of the statement in reference, emergency leave seems to me a typically "normal administrative problem confronting the ordinary government agency" (re the fact that the employee was stationed in [REDACTED] see paragraph 4 below). In this connection, see paragraphs 7(b)(1) and (2) of [REDACTED], which prohibit the use of confidential funds "for the solution of administrative difficulties unless the factors of security or operations peculiar to this Agency fully support the expenditure and preclude the use of vouchered funds" or to give CIA employees a "financial benefit in comparison to other Government employees". Since there was a solution available to the claimant - that is, he too could have taken home leave - it seems impossible to "fully support" the expenditure; further, reimbursement would give claimant a financial benefit in comparison to other Government employees. The cited provisions of [REDACTED] and the Comptroller General's decision of November 29, 1951, to

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the effect that the broad and special authority of CIA under the CIA Act of 1949 does not justify "a disregard of any control with respect to the normal administrative or operating problems which confront the ordinary Government agency", therefore preclude reimbursement under either paragraph 9(a) of [REDACTED] or other authority.

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3. Reference, and to some extent, claimant's statement of 4 February 1954, advance a number of arguments of logic and fairness and suggest that notwithstanding that the rejection of the claim was proper on the basis of law and administrative logic, we should reimburse anyway. This contention seems to assume that the unusual authority granted to this Agency is such that in particularly meritorious cases, we can stretch or ignore the rules which are imposed upon us by law. The fact is that this Agency, like all others, is limited and regulated by law (although the laws applicable to the various agencies may not be, and in fact, are not the same for all). The rejection of the claim was made on the basis that even the special authorities of this Agency would not permit reimbursement. Since authority is lacking, other considerations cannot help claimant.

4. The above, which is based on the advice of the Office of General Counsel, is admittedly legalistic. However, I must acknowledge that in my view, fairness to all concerned and sound administration would also require that the claim be rejected. Claimant's dependents legitimately needed to take home leave. Claimant could have been reimbursed if he too had taken home leave, which he declined to do notwithstanding that he was not required to decline it and notwithstanding that there is benefit to the Government when employees return to the United States on leave. If assignment in [REDACTED] causes undue pressures or strains on employees, particularly when they are accompanied by dependents, the solution would lie in authorizing leave out of [REDACTED] from time to time, or perhaps in not sending families to [REDACTED] or, as in this case, in taking home leave when it is authorized. I am not aware that either [REDACTED] or [REDACTED] has advocated either of the former.

S[REDACTED]

H. GATES LLOYD

Acting Deputy Director (Support)

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